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Zilka-Kotab, PC P.O. BOX 721120 SAN JOSE, CA 95172-1120			THOMPSON, MARC D	
			ART UNIT	PAPER NUMBER
			2144	

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

es

<b>Office Action Summary</b>	<b>Application No.</b> 09/552,818	<b>Applicant(s)</b> SCHWEITZER ET AL.	
	<b>Examiner</b> Marc D. Thompson	<b>Art Unit</b> 2144	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 June 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4,6-17 and 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,6-17 and 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
     If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
     \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
     a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                              | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>20030602</u> | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. The response to the prior information requirement made under 37 CFR §1.105 was received on 6/10/2004
2. Amendment A, received 6/2/2003, has been entered into record, and defines the currently treated claims.
3. Claims 1-4, 6-17, and 19 remain pending.

#### ***Priority***

4. This application claims benefit to provisional application 60/141,351, filed 6/28/1999.
5. The effective filing date for the subject matter defined in the pending claims in this application which have support in the parent provisional application is 6/28/1999.

#### ***Drawings***

6. The Examiner contends that the drawings submitted on 8/21/2001 are acceptable for examination proceedings.

#### ***Specification***

7. The specification is objected to The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.
8. Applicant is also reminded of the proper content of an abstract of the disclosure. A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In

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certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative. The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art. Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

9. The abstract of the disclosure is objected to because the current abstract does not meet the generalized form outlined above. The abstract should remain broad enough to convey the nature of the invention without depending heavily on recitation of prior art. Further, the abstract is required to, at least minimally, describe the details and environment of the claimed invention.

Correction is required. See MPEP § 608.01(b).

### ***Claim Rejections - 35 USC § 101***

10. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

11. Claim 19 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter, lacking patentable utility.

12. Claim 19 recites “a computer data signal embodied in a carrier wave”.

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a. First, there is no provision for the signal/carrier wave to be readable by a computer. Even though a “computer program” is allegedly defined, no specific recitation for computer readable status is provided.

b. Second, there is no requirement for a computer to read, interpret, or otherwise interact with the signal/carrier wave. Statutory subject matter in the computing arts require interaction of programmatic instructions and associated computing equipment.

c. Third, there is no requirement that any one of the “set(s) of instructions” actually be executed (subsequently causing something to happen), even if interaction was defined.

13. Acceptable forms of this type of claimed subject matter may include defining the relationship of the computer and programmatic functionality in the preamble of the claim. For example, “A computer readable medium, having stored thereon computer instructions, which when read by a computer cause the computer to perform the steps of...” constitutes a proper construction of the relationship required between program and machine to provide patentability.

***Claim Rejections - 35 USC § 112***

14. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

15. Claims 1-4, 6-17, and 19 are rejected under 35 U.S.C. §112, second paragraph, as failing to set forth the subject matter which applicant(s) regard as their invention.

16. The claims, title, abstract, and specification use the term "session reconstruction" and “reconstructing a voice call session” without providing adequate definition to determine the

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metes and bounds of what this limitation includes. Commensurate with the specification, the definition of "session" is relatively clear (Page 9, Lines 11-24), but the operation of the described "reconstruction system(s)" is vague and remains open to multiple interpretations when portraying functionality drawn to "session reconstruction" or "reconstruction [of a] session". Thus, the use of this limitation in the claims is held indefinite since the term does not directly impart any specifically defined behavior or functionality. For examination purposes, "session reconstruction", and identically, "reconstructing a voice call session" will be treated as the gathering of information about the voice call session, and the analyzing of this gathered information in order to monitor or account the specific voice call flow (session), or sets of voice call flows (sessions). See, for example, present specification, Page 18, Line 11 through Page 20, Line 12.

17. It is noted that this rejection is identical to the previous rejection on the same basis, and Applicant has completely failed to clarify the term(s) used when addressing the rejection. See, response, received 6/2/2003, Page 5. While Applicant contends that the term "reconstructing the session" is "sufficiently clear", no clarification of the metes and bounds of this limitation are even remotely provided beyond what the Examiner supplied. It is simply unclear how something can be considered "sufficiently clear and definite" when no specific definition of what the limitation describes is provided. Further, Applicant does not comment on the interpretation provided by the Examiner for claim construction. Thus, this response is treated as nothing more than a general allegation of clarity, since no discussion other than the position set forth by Examiner concerning the meaning of any portion of this cited limitation or rejection is present in the file history. Lastly, in the response Applicant asserts that "session reconstruction" is not

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claimed, while the specification, and Applicant submissions are replete with usage of this descriptive term. In short, there is factual basis for differentiating between "session reconstruction" or "reconstruction [of a voice call] session". Applicant is requested to clarify the position set forth in regard to this alleged discrepancy.

***Claim Rejections - 35 USC § 103***

18. The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. §103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR §1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. §103(c) and potential 35 U.S.C. §102(f) or (g) prior art under 35 U.S.C. §103(a).

20. Claims 1-4, 6-17, and 19 are rejected under 35 U.S.C. §103(a) as being unpatentable over Chiu et al (U.S. Patent Number 5,101,402), hereinafter referred to as Chiu, in view of Kia et al. (U.S. Patent Number 6,404,870), hereinafter referred to as Kia.

21. Specific mapping(s) to particular claim limitation(s) can be readily isolated from previous rejections in prior action(s) using this previously applied art, or directly derived from well known subject matter discussed in prior action(s). Reiteration of specific limitation mapping will not be provided here.

22. Chiu disclosed a system and method for real-time monitoring of software sessions by analyzing packets transmitted on the network using session identifiers in packets header(s),

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statistical gathering of session flow characteristics on the network, and preparation of gathered information in specific formats. See, inter alia, Abstract, Column 4, Line 59 through Column 5, Line 41, and Column 6, Lines 53 through Column 7, Line 14. In short, Chiu disclosed definition of a “session” format (Fig. 14) which was used to discern network packet traffic to monitor sessions of software/applications on the network.

23. While Chiu disclosed the invention substantially as claimed, Chiu did not specifically disclose the provision for using prepaid accounts associated with particular users to account application usage associated with voice call information transfer or the termination of the application flow should the required amount for use of the service exceed the prepaid account balance. Chiu did disclose the provision for arbitrary application(s) (see, inter alia, Column 4, Lines 30-67), specifically, Chiu disclosed the monitoring of application specific traffic, inter alia, in Column 4, Lines 44-50, and network load/usage measuring/monitoring, inter alia, in Column 4, Lines 30-33. Since network usage involves the usage of resources, and the usage of network resources cost money, it would have been obvious to one of ordinary skill in the art at the time the invention was made to search the related arts for teachings directly related to particular, suitable network application(s) for this type of monitoring, and additionally, methodology suitable to accurately charge network users according to the amount of network resources they consume.

24. In the same art of network application monitoring, Kia provided specific teachings directly related to voice phone call network resource monitoring and billing (inter alia, Column 1, Lines 28-42), prepaid user account maintenance (inter alia, Column 1, Lines 43-50, Column 2, Lines 14-19), termination of the call(s)/flow(s) when balance amounts were exceeded



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(inter alia, Column 1, Lines 40-42), and additional discussion of quality of service authorizations (inter alia, Column 2, Lines 52-59, Column 4, Lines 47-61).

25. It would have been obvious to one of ordinary skill in the art working with the Chiu system to explore the related arts and modify the system with the teachings of Kia, minimally, to accurately charge user(s) appropriately for network resources. See, Kia, Column 3, Line 65 through Column 4, Line 9. Additionally, application monitoring provided by Chiu would have enhanced by the robust distributed methodology set forth by Kia, inter alia, in Column 2, Lines 27-35, and Column 3, Lines 47-54.

26. Since the combination of these teachings provide each and every limitation set forth in the invention as claimed, claims 1-4, 6-17, and 19 are rejected.

27. Claims 1-4, 6-17, and 19 are rejected under 35 U.S.C. §103(a) as being unpatentable over McCreery as applied above, in view of Ronen (U.S. Patent Number 5,845,267), hereinafter referred to as Ronen, further in view of Kia et al. (U.S. Patent Number 6,404,870), hereinafter referred to as Kia.

28. McCreery disclosed a system for analyzing network activity by examining transient packets, determining and storing transactional data, and generation of reports regarding network and application efficiency, utilization, and usage. See Column 2, Lines 8-67.

29. McCreery disclosed the invention substantially as claimed. McCreery failed, however, to disclose any mechanism(s) to bill network users for use of specific services available on the network. The provision for the billing of network services by the network owner (or more likely, some intermediate re-seller) was well known in the art at the time of invention. The issue of cost

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was an inherent concern of the ordinary artisan at the time of invention, since any transactional request as set forth in McCreery was using network and computer resources, including bandwidth and server processing power. Since billing for network services was well known, and billing for transactional data was well known, an artisan would have been motivated to search the network services billing arts for suitable billing mechanisms for simple, seamless modification of the McCreery system which would have resulted in an accurate billing system for clients accessing network services.

30. In these arts, Ronen disclosed a system and method for billing for network transactions. See Title. The system utilized a session manager to identify information flows for particular users, and used a billing platform to bill those users for network application/service usage. See Abstract. Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the monitoring system for network resources of McCreery with the billing system for network resources by Ronen, to result an accurate billing system for the usage of available network resources.

31. The combination of McCreery and Ronen disclosed the invention substantially as claimed. This combination of teachings did not expressly provide identification of prepaid accounts, association of user(s) with these type(s) of accounts, and termination of the application flow should the required amount for use of the service exceed the prepaid account balance.

32. In the same art of network application monitoring and associated billing systems, Kia provided specific teachings directly related to voice phone call network resource monitoring and billing (inter alia, Column 1, Lines 28-42), prepaid user account maintenance (inter alia, Column 1, Lines 43-50, Column 2, Lines 14-19), termination of the call(s)/flow(s) when balance

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amounts were exceeded (inter alia, Column 1, Lines 40-42), and additional discussion of quality of service authorizations (inter alia, Column 2, Lines 52-59, Column 4, Lines 47-61).

33. It would have been obvious to one of ordinary skill in the art working with the combined McCreery and Ronen system to explore the related arts and modify the system with the teachings of Kia, minimally, to accurately charge user(s) appropriately for network resources in accordance with the intention of Ronen. See, Kia, Column 3, Line 65 through Column 4, Line 9.

Additionally, application monitoring provided by McCreery would have enhanced by the robust distributed methodology set forth by Kia, inter alia, in Column 2, Lines 27-35, and Column 3, Lines 47-54.

34. Since the combination of these teachings provide each and every limitation set forth in the invention as claimed, claims 1-4, 6-17, and 19 are rejected.

35. Claims 1-4, 6-17, and 19 are rejected under 35 U.S.C. §103(a) as being unpatentable over “Rich Data About customer Usage” (Narus’ semantic traffic analysis), written by Bill Roberts for Internet World, v5, n10, p27, published 3/15/1999, hereinafter referred to as Roberts, in view of “Narus and Portal Join to Provide Internet service Providers Full Customer Management and Billing Solutions; Alliance creates Solution Suites for ISPs to Build Service-Driven Businesses”, Business Wire, 3/16/1999, hereinafter referred to as Business Wire, further in view of “NARUS Intelligence”, February 1999, product detail sheet, digitally dated 2/18/1999, hereinafter referred to as Narus Intelligence, in view of Kia et al. (U.S. Patent Number 6,404,870), hereinafter referred to as Kia.

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36. Roberts disclosed “semantic traffic analysis” which allowed an ISP to capture and analyze (“sniff”) packets in order to gather information about application level and customer usage of the network, including IP telephony, e-mail, application usage, multimedia streaming, and any other IP service. The system was equipped to track user behavior during sessions. The system further allowed customers to receive “billing information that’s as specific as a telephone bill”, i.e., itemized. Thus, Roberts disclosed reception of packets on the network, analyzing the packets and flows to identify sessions, identification of application(s) associated with the session, identification of the user associated with the session, and appropriate billing for usage of network resources. Policy determination was implicitly disclosed, since customers were billed a determined amount in exchange for services and the system offered itemized, discrete billing information. Thus, generation of reports including billing information were also disclosed. Filtering of packets unrelated to the session was inherent, since discerning of the session itself provided this. In short, the system “measure customers’ usage of applications and charge[d] them appropriately”, by “sniff[ing] network traffic”, using “[a] number of probes required [depending] on the size and geographical reach of the network.”

37. An artisan working with the Roberts (Narus) system would have been motivated to search for further teachings in the same art, dealing directly with this system and the underlying technology. In these arts, Business Wire disclosed an alliance between Narus and Portal, which resulted in “comprehensive and flexible customer management and billing solutions” which “capture[d] real-time, comprehensive network and application-level customer usage information directly from IP networks” by “capturing all customer usage activity.” Thus, provision for packet analyzing, session reconstruction, identification of particular applications/services, billing

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for application events according to a general policy, and output of reports including the billing information were all disclosed.

38. Further, the product information available concerning Narus (Narus Intelligence) disclosed a list of reports available for output. It should be noted that any generated report assumedly used gathered, accurate information. Among this reported information includes, inter alia, connection times, application usage, QoS measurements, and packet counts. Likewise, all the application information gathered was associated with an arbitrary network resource cost, which directly resulted in billing of users for use of the reported applications.

39. Combination of these teachings would have been obvious to one of ordinary skill in the art at the time the invention was made, since all of them deal directly with the same product and manufacturing company, Narus. This was one possible array of teachings dealing with a single, particular product and set of services.

40. The combination of Roberts and Narus disclosed the invention substantially as claimed. This combination of teachings did not expressly provide identification of prepaid accounts, association of user(s) with these type(s) of accounts, and termination of the application flow should the required amount for use of the service exceed the prepaid account balance.

41. In the same art of network application monitoring and associated billing systems, Kia provided specific teachings directly related to voice phone call network resource monitoring and billing (inter alia, Column 1, Lines 28-42), prepaid user account maintenance (inter alia, Column 1, Lines 43-50, Column 2, Lines 14-19), termination of the call(s)/flow(s) when balance amounts were exceeded (inter alia, Column 1, Lines 40-42), and additional discussion of quality of service authorizations (inter alia, Column 2, Lines 52-59, Column 4, Lines 47-61).

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42. It would have been obvious to one of ordinary skill in the art working with the combined Roberts and Narus system to explore the related arts and modify the system with the teachings of Kia, minimally, to accurately charge user(s) appropriately for network resources in accordance with the intention of Narus. See, Kia, Column 3, Line 65 through Column 4, Line 9.

Additionally, application monitoring provided by Roberts would have enhanced by the robust distributed methodology set forth by Kia, inter alia, in Column 2, Lines 27-35, and Column 3, Lines 47-54.

43. Since the combination of these teachings provide each and every limitation set forth in the invention as claimed, claims 1-4, 6-17, and 19 are rejected.

#### ***Response to Arguments***

44. The arguments presented by Applicant in the response, received 6/2/2003, are not considered persuasive.

45. Applicant argues the prior art of record did not disclose, teach or suggest “identifying a voice call prepaid account associated with a user”. This broadly characterized feature was unquestionably disclosed by Kia, inter alia, in Column 2, Lines 13-19.

46. Applicant argues the prior art of record did not disclose, teach or suggest “receiving packets representative of a voice call over a network”. This was inherent in, inter alia, Voice over IP (VoIP) telephony networking systems as disclosed, inter alia, by Kia, in Column 1, Lines 16-19.

47. Applicant argues the prior art of record did not disclose, teach or suggest “charging for the voice call against the voice call prepaid account and terminating access to voice calls by the

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user if the voice call prepaid account is exceeded". Again, this broadly characterized feature was unquestionably disclosed by Kia. See, inter alia, Column 2, Lines 13-19.

48. The totality of these features were disclosed by Kia in Column 1, Lines 43-50. It is also noted that these cited teachings were disclosed as background to the Kia invention(s), resident in the "Background of the Invention" section of the disclosure. This provides clear and convincing evidence of the lack of novelty/obviousness of the overly broad claimed invention currently being examined. Additionally, the breadth of the intended coverage of the claims is making isolation of the invention difficult for the Examiner. The disclosure details many features and functional elements which span a wide variety of functions and uses. In light of Applicant failing to submit directly pertinent descriptive material(s), the failure of Applicant to argue the intended meaning of the claimed invention, and the incremental amendment(s) submitted for present consideration, the Examiner is forced to interpret the claimed invention as broadly as reasonably possible in determination of patentability. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Applicant employs broad language which includes the use of words and phrases which have broad meanings in the art, inter alia, "flows", "session", "policy", and "quality of service". It is once again suggested that Applicant argue narrower interpretation of the claim language, and amend the claims significantly enough to construe a narrower meaning to the limitations. As the claims breadth allows multiple interpretations and meanings which are broader than Applicant's disclosure, the Examiner is forced to interpret the claim limitations as broadly as reasonably possible, in determining patentability of the disclosed invention.

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49. Applicant's arguments may fail to comply with 37 CFR 1.111(b) and 37 CFR 1.111(c) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references and general failure to clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made.

50. Again, as a general matter, not only the specific teachings of a reference but also reasonable inferences which an artisan would have logically drawn therefrom may be properly evaluated in formulating a rejection. *In re Preda*, 401 F.2d 825, 159 USPQ 342 (CCPA 1968) and *In re Sherpard*, 319 F.2d 194, 138 USPQ 148 (CCPA 1963). Skill in the art is presumed. *In re Sovish*, 769 F.2d 738, 226 USPQ 771 (Fed. Cir. 1985). Furthermore, artisans must be presumed to know something about the art apart from what the references disclose. *In re Jacoby*, 309 F.2d 738, 226 USPQ 317 (CCPA 1962). The conclusion of obviousness may be made from common knowledge and common sense of a person of ordinary skill in the art without any specific hint or suggestion in a particular reference. *In re Bozek*, 416 F.2d 738, 1385 USPQ 545 (CCPA 1969). Every reference relies to some extent on knowledge of persons skilled in the art to complement that which is disclosed therein. *In re Bode*, 550 F.2d 656, 193 USPQ 545 (CCPA 1977). The above rejections assume ordinary knowledge and well known functionality in the field of computer networking. Motivation for obtaining and incorporating related technologies, and resulting modification(s) of any/all disclosed subject matter in the above rejections would have been reasonable to one of ordinary skill in the art at the time the invention was made.



***Conclusion***

51. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

52. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

53. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

54. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc D. Thompson whose telephone number is 571-272-3932. The examiner can normally be reached on Monday-Friday, 9am-4pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Cuchlinski, Jr. can be reached at 571-272-3925. The fax phone number for the organization where this application or proceeding is assigned remains 703-872-9306.

55. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MARC D. THOMPSON  
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PRIMARY EXAMINER

Marc D. Thompson  
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Art Unit 2144